



1/A
6/22/01
PATENT
ATTORNEY DOCKET NO.: 044574-5022-2



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Assistant Commissioner for Patents
BOX PATENT APPLICATION
Washington, D.C. 20231

PRIOR APPLICATION: Examiner: Lin Sun-Hoffman, Ph.D.
Group Art Unit: 1642

**CONTINUATION, DIVISIONAL, AND CONTINUATION-IN-PART
PATENT APPLICATION TRANSMITTAL UNDER 37 C.F.R. § 1.53(b)**

This is a request for filing a patent application under 37 C.F.R. § 1.53(b).

1. This application is a [] Continuation [☒] Divisional [] Continuation-in-Part patent application under 37 C.F.R. § 1.53(b), of pending prior application no. 08/975,080, filed on November 20, 1997, now allowed, which claims priority to U.S. Provisional Application No. 60/031,435, filed November 20, 1996, of:

Inventor(s): Dario C. ALTIERI

For: SURVIVIN, A PROTEIN THAT INHIBITS CELLULAR APOPTOSIS AND ITS MODULATION

2. The papers enclosed are as follows:

83 Page(s) of specification including
0 Title Page
2 Page(s) of claims
1 Page of abstract
28 Sheet(s) of drawings

3. Amendments

For continuation and divisional applications:

- ☒ Cancel in this application original claims 9-16 in the enclosed copy of prior application before calculating the filing fee.

- ☒ A preliminary amendment is enclosed. (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

4. Oath or Declaration

For continuation or divisional applications:

- ☐ A newly executed (original or copy) oath or declaration is enclosed.
- ☒ A copy of an oath or declaration from a prior application is enclosed under 37 C.F.R. § 1.63(d). The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied is considered as part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- ☐ A signed statement deleting inventor(s) named in the prior application is enclosed.

For continuation-in-part applications:

- ☐ A newly executed (original or copy) oath or declaration is enclosed.
- ☐ An oath or declaration is not enclosed. This application is being filed under 37 C.F.R. § 1.53(f). Applicant(s) await notification from the Patent and Trademark Office of the time set for filing the declaration and paying the filing fees.

5. Relate Back - 35 U.S.C. § 120

- ☒ Amend the specification by inserting before the first line the sentence:

“This is a ☐ continuation ☒ divisional ☐ continuation-in-part of copending application(s)

- ☒ Application No. 08/975,080 filed on November 20, 1997, now allowed, which claims priority to U.S. Provisional Application No. 60/031,435 filed November 20, 1996, both of which are herein incorporated by reference in their entirety.”

6. Priority - foreign applications under 35 U.S.C. § 119(a)-(d) or § 365(b) or PCT international applications under 35 U.S.C. § 365(a) designating at least one country other than the U.S.

☐ Priority of the following foreign application(s) is/are claimed:

Country	Application No.	Filed

Certified copy(ies): ☐ is/are attached.
☐ will follow.
☐ was/were filed in prior U.S. Application No. _____ on _____.

7. Assignment

For continuation or divisional applications:

☒ The prior application is assigned of record to Yale University, recorded September 9, 1998 at Reel/Frame 9439/0997.

☐ An assignment of the invention to _____ and a PTO Form-1595, Recordation Form Cover Sheet, are enclosed.

For continuation-in-part applications:

☐ An assignment of the invention to _____ and a PTO Form-1595, Recordation Form Cover Sheet, are enclosed.

8. Fee Calculation (37 C.F.R. § 1.16)

CLAIMS FOR FEE CALCULATION				
	Number Filed	Number Extra	at Rate of	Basic Fee Utility \$710.00
Total Claims (37 C.F.R. § 1.16(c))	- 20 =		\$ 18.00 each =	+ \$
Independent Claims (37 C.F.R. § 1.16(b))	- 3 =		\$ 80.00 each =	+ \$
Multiple dependent claim(s), if any (37 C.F.R. § 1.16(d))			\$270.00	+ \$
SUB-TOTAL =				\$
Reduction by 2 for filing by a small entity				+ \$
TOTAL FILING FEE =				\$

9. Fee Payment

☒ Not Enclosed. **NO FEE IS BEING PAID BY CHECK OR DEPOSIT ACCOUNT AT THIS TIME.**

This application is being filed under the provisions of 37 C.F.R. § 1.53(f).
Applicant(s) await notification from the Patent and Trademark Office of the time set for filing the Declaration and paying the filing fees.

☐ Enclosed.

A check(s) in the amount of \$_____ to cover the _____ is enclosed.

☐ The fee for extra claims under 37 C.F.R. § 1.16(d) is not being paid at this time and no authorization is given to charge our deposit account for this fee.

10. Small Entity Status is claimed and

☐ a statement claiming small entity status is enclosed, or

☐ a small entity statement was filed in the prior nonprovisional application and is still proper and desired.

11. ☒ The power of attorney in the prior application is to at least one of the registered practitioners of Morgan, Lewis & Bockius LLP included in the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and all correspondence shall be addressed to that Customer Number.

Please address all correspondence to Morgan, Lewis & Bockius LLP at **Customer Number: 009629**

12. ☐ Recognize as associate attorney _____.
(name, address, and registration no.)

13. ☒ **PETITION FOR EXTENSION OF TIME.** If any extension of time is necessary for the filing of this application, including any extension in the prior application, application no. 08/975,080, filed November 20, 1997, for the purpose of maintaining copendency between the prior application and the present application, and such extension has not otherwise been requested, such an extension is hereby requested, and the Commissioner is authorized to charge necessary fees for such an extension to Deposit Account No. 50-0310.

14. ☒ **EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §' 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be an **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

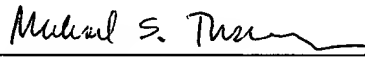
15. Additional papers enclosed:

- ☒ Information Disclosure Statement
- ☒ Form PTO-1449
- ☐ Declaration of Biological Deposit
- ☒ Submission of "Sequence Listing"
- ☒ Request to Transfer Sequence Listing

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By:



Michael S. Tuscan

Reg. No. 43,210

Dated: October 18, 2000

Customer No. 09629
MORGAN, LEWIS & BOCKIUS LLP
1800 M Street, N.W.
Washington, D.C. 20036-5869
202-467-7000

jc013 U.S. PTO
09/690825
10/18/00

RESPONSE TO NOTICE OF NON-RECORDATION OF DOCUMENT

WA01A/A24259.1